

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 3, 2020

Governor's Office of Planning & Research

MAR 03 2020

STATE CLEARINGHOUSE

Mr. Jason Hernandez
City of Los Angeles Planning Department
200 N. Spring Street, Room 621
Los Angeles, CA 90012
Jason.hernandez@lacity.org

Subject: Mitigated Negative Declaration for the York Residence Project, City of Los Angeles, Los Angeles County

Dear Mr. Hernandez:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the York Residence Project (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project proposes to construct one roughly 9,250 square feet single-family residence on 39.83 acres on Assessor Parcel 5577-008-003 (6459 West Innsdale Drive). Accessory uses include a roughly 1,850 square feet guesthouse, pool, equine and ovine areas. The Project proposes to construct a 20-foot-wide private driveway/fire access road from the western terminus of West Innsdale Drive over a portion of a paper street and Assessor Parcel 5577-038-047 (6443 West Innsdale Drive) to provide access. The Project will disturb approximately 3.07 acres of the 40.46-acre site (approximately 7.7 percent). Wherever possible, disturbed slopes will be re-vegetated with native species.

The Project proposes equine and ovine uses for agricultural purposes. The property already includes an active organic vineyard and olive orchard. The 4 to 6 animals will be located on the two main flat areas of the fill site. Each area will include a 10 foot by 12 inch metal noncombustible shade structure surrounded by a steel noncombustible fence. The equine use will assist workers who manage the active, organic vineyard on foot. The ovine use will assist with sustainable organic weed control and required fire department brush clearance.

Location: The Project site is located at 6443 and 6459 West Innsdale Drive, Los Angeles, CA 90068. The proposed Project is located northeast of Lake Hollywood in the Hollywood Hills in the Hollywood Community Plan area of Los Angeles. The Project site occupies two adjacent parcels: APNs 5577-038-047 and 5577-008-003.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Los Angeles (City) in adequately identifying, avoiding and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Project Description and Related Impact Shortcoming

Comment #1: Impacts to Special-Status Plant Species

Issue: Plummer's mariposa lily (*Calochortus plummerae*) are found throughout the Project site. On page 25 of the MND, Section 2.2.3 Biological Resources states that "Plummer's mariposa lily was detected in 40 subpopulations throughout the property. Approximately 393 individuals were observed on site." An uncertain number of Plummer's mariposa lily are found directly in the Project's impact footprint. Page 27 of the MND, *Figure 22 – Vegetation Impact Map*, supports this by showing "Impacted *Calochortus* Locations" in the "Disturbed Area for Residence and Driveway", without indicating the number of plants.

Specific impact: Plummer's mariposa lily is listed by California Native Plant Society (CNPS) as having a rarity ranking of 4.2 (previously on List 1B.2). This is considered moderately threatened in California and thus a locally rare plant species that warrants mitigation. Project activities, such as grading and construction, are likely to have direct or indirect effects to this sensitive species.

Why impact would occur: Project implementation includes grading, vegetation clearing for, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species.

Evidence impact would be significant: CDFW considers plant communities, alliances, and associations with a California Rare Plant Rank of S1, S2, S3 and S4 as sensitive and declining at the local and regional level (Sawyer et al., 2008). An S3 ranking indicates there are 21 to 80 occurrences of this community in existence in California, S2 has 6 to 20 occurrences, and S1 has less than 6 occurrences.

According to the CNPS Ranking System, plants are also assigned a Threat Rank, which represents the immediacy of threat to a sensitive plant species. The CNPS Threat Ranks are as follows:

- 0.1 - Seriously threatened in California (over 80 percent of occurrences threatened / high degree and immediacy of threat)
- 0.2 - Moderately threatened in California (20 to 80 percent occurrences threatened / moderate degree and immediacy of threat)
- 0.3 - Not very threatened in California (less than 20 percent of occurrences threatened / low degree and immediacy of threat or no current threats known)

Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive plant species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or United States Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends conducting focused surveys for sensitive/rare plants on site and disclosing the results in the final environmental document. Based on the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2018), a qualified biologist should "conduct surveys in the field at the time of year when species are both evident and identifiable. Usually this is during flowering or fruiting." The final CEQA documentation should provide a thorough discussion on the presence/absence of sensitive plants on site and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.

Mitigation Measure #2: In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the State (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

Mitigation Measure #3: CDFW recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S3 ranked communities and 7:1 for S2 communities should be implemented. This ratio is for the acreage and the individual plants that comprise each unique community. All

revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Assembly Bill 1094; Government Code, §§ 65965-65968).

Comment #2: Insufficient buffers for active bird nests

Issue: Page 2 states that "[B]uffers will be based on the species identified, but generally will consist of 50 feet for non-raptors and 300 feet for raptors." The Project MND mitigation measures for nesting birds recommend very small avoidance buffers that may disturb or cause take of birds.

Specific impacts: Construction during the breeding season for nesting birds could result in the incidental loss of fertile eggs or nestlings or otherwise lead to nest abandonment. The Project could also lead to the loss of foraging habitat for sensitive bird species.

Why impact would occur: Impacts to nesting birds could result from vegetation clearing and other ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable nesting and foraging habitats. Construction during the breeding season for nesting birds could result in the incidental loss of reproductive success or otherwise lead to nest abandonment.

Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under State laws and regulations, including Fish and Game Code, Sections 3503 and 3503.5. CDFW also considers impacts to Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: To protect nesting birds that may occur on site, CDFW recommends that the final environmental document include a measure that no construction shall occur from February 15 through August 31. If construction during this period must occur, a qualified biologist shall complete a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of passerine birds are observed, they shall be designated an ecologically sensitive area and protected (while occupied) by a minimum 300-foot radius during project construction. If any nests of birds of prey are observed, they shall be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction.

Comment #3: Impacts to Streams

Issue: Project-related activities are likely to impact on-site hydrologic features. Page 2 of the MND states, "[o]ne ephemeral feature, covering approximately 0.02 acre, was determined to be potentially subject to the jurisdiction of the Corps, CDFW, or RWQCB within the animal keeping area." Figure 23 on page 75, Jurisdictional Impact Map, of the MND indicates that a significant portion of Drainage A is within the grading footprint of the Project. CDFW is concerned that the Project location supports streams subject to notification under Fish and Game Code, Section 1600 *et seq.* Based on the location of the Project site, immediately uphill from the Hollywood Reservoir, CDFW has concerns about the water quality runoff from the site.

On Wednesday, November 15, 2017, CDFW met with Project proponents and members of the California State Water Resources Control Board to confirm that on-site features would be subject to notification for a Lake and Streambed Alteration Agreement.

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site. The addition of livestock has the potential to result in diminished downstream water quality. With each rain event, organic waste can wash off the Project site and into the nearby Hollywood Reservoir.

Why impacts would occur: Ground disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted by Project-related releases of sediment, organic matter, pathogens, and altered watershed effects resulting from Project activities.

Evidence impacts would be significant: The Project may substantially adversely affect the existing stream pattern of the Project site through the alteration or diversion of a stream, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

The Project may substantially adversely affect the water quality of adjacent stream flows because of runoff from the Project site. Water discharges from agricultural operations in California include irrigation runoff, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants, including pesticides, sediment, nutrients, salts (including selenium and boron), pathogens, and heavy metals, from agricultural fields into surface waters. Many surface water bodies and groundwater are impaired because of pollutants from agricultural sources. Project-related activities may yield impacts that substantially diminish the existing water quality of the adjacent stream and its associated habitat.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to Fish and Game Code, Section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a

Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at www.wildlife.ca.gov/habcon/1600.

CDFW's issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency (City) for the Project. However, the MND does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to Fish and Game Code, Section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

Mitigation Measure #2: Any LSA permit issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Mitigation Measure #3: When developing the Project, the applicant should include avoidance measures to exclude livestock from entering and impacting on-site hydrologic features. Demarcation boundaries should be established with flagging and enforced with fencing to minimize impacts to drainages and related downstream resources. Similar specific measures will be identified in a subsequent LSA.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the City and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Los Angeles in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines; § 15073(e)]. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist, at Andrew.Valand@wildlife.ca.gov or (562) 342-2142.

Sincerely,



Erinn Wilson
Environmental Program Manager I

Mr. Jason Hernandez
City of Los Angeles Planning Department
March 3, 2020
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cc: CDFW

Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Felicia Silva – Los Alamitos
Audrey Kelly – Los Alamitos
Malinda Santonil – Los Alamitos
Dolores Duarte – San Diego
CEQA HQ - Sacramento

State Clearinghouse

References:

California Department of Fish and Wildlife [CDFW]. March 20, 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (see <https://www.wildlife.ca.gov/Conservation/Plants>).

Sawyer, J.O., Keeler Wolf, T., and Evens J.M. 2008. A manual of California Vegetation, 2nd ed. ISBN 978 0 943460 49 9.



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CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources			
	Mitigation Measure	Timing	Responsible Party
MM-BIO-1 – Sensitive/rare Plant Surveys	The City shall conduct focused surveys for sensitive/rare plants on site and disclose the results in the final environmental document. Based on the <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities</i> (CDFW 2018), a qualified biologist shall “conduct surveys in the field at the time of year when species are both evident and identifiable. Usually this is during flowering or fruiting.” The final CEQA documentation shall provide a thorough discussion on the presence/absence of sensitive plants on site and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.	Prior to construction	The City of Los Angeles
MM-BIO-2 – Mapping According to Manual of California Vegetation	The City shall provide the Manual of California Vegetation alliance/association community names for mapped vegetation in the final environmental document to determine the rarity ranking of vegetation communities on the Project site.	Prior to construction	The City of Los Angeles
MM-BIO-3 – Replacement of Sensitive Vegetation	The Project proponent shall avoid any sensitive natural communities found on the Project. If avoidance is not feasible, the Project proponent shall mitigate at a ratio of no less than 5:1 for impacts to S3 ranked communities and 7:1 for S2 communities. This ratio is for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation shall include preparation of a restoration plan, to be approved by USFWS and CDFW prior to any ground disturbance. The restoration plan shall include restoration and	Prior to construction	The City of Los Angeles Project proponent

	monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands.		
MM-BIO-4 – Bird Nest Buffers	To protect nesting birds that may occur on site, no construction shall occur from February 15 through August 31. If construction during this period must occur, a qualified biologist shall complete a survey for nesting bird activity within a 500-foot radius of the construction site. The nesting bird surveys shall be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of passerine birds are observed, they shall be designated an ecologically sensitive area and protected (while occupied) by a minimum 300-foot radius during project construction. If any nests of birds of prey are observed, they shall be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction.	Prior to construction	The City of Los Angeles Project proponent
MM-BIO-5 – Notification for a Lake & Streambed Alteration Agreement	For activities resulting in the alteration of streams, the Project proponent must provide written notification to CDFW pursuant to Section 1600 <i>et seq.</i> of the Fish and Game Code. To minimize additional requirements by CDFW pursuant to Fish and Game Code, Section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document shall fully identify the potential impacts to the stream or riparian resources and shall provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.	Prior to construction	The City of Los Angeles Project proponent
MM-BIO-6 – Additional Measures in Lake & Streambed	To compensate for any on-site and off-site impacts to riparian resources, the Project proponent shall provide measures of avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.	Prior to construction	The City of Los Angeles Project proponent

Alteration Agreements			
MM-BIO-7 – Avoidance & Exclusionary Measures for Livestock	The Project proponent shall include avoidance measures to exclude livestock from entering and impacting on-site hydrologic features. Demarcation boundaries shall be established with flagging and enforced with fencing to minimize impacts to drainages and related downstream resources. Similar specific measures will be identified in a subsequent LSA.	Prior to construction	The City of Los Angeles Project proponent